

Remarks

Claims 1-21 were previously pending and stand rejected. It is proposed that claims 1, 6, 10, and 21 be amended while claims 4, 5, 12-20, and 22-23 be cancelled after final in order to expedite prosecution of the present application and achieve an after final allowance. Applicants assert that the claims are now in condition for allowance after final as set forth more fully below.

Interview Summary

The undersigned participated in a telephone interview with the Examiner in June 2005. During the interview, deficiencies in the Hite reference relative to subject matter of the present application were discussed. Namely, it was discussed in relation to claim 5 how Hite fails to disclose the signal being sent to the set top box to instruct that a commercial be inserted includes a classification of the commercial to be inserted. Instead, the commercials of the set top box are sent to the set top box and instructions to record particular commercials sent in advance are provided to the set top box based on their classification. However, there is no disclosure of a signal to instruct the set top box to insert the commercials but instead the commercials are set to play back at an appropriate time. Furthermore, it was discussed in relation to claim 21 that Hite in view of Schmelzer fails to disclose the detection of the audio tone within the set top box to insert the commercial. Instead, Schmelzer shows the audio tone detection occurring at the head end where the commercials are inserted.

102 Rejections

Claims 12 stands rejected under 35 USC 102 as being anticipated by Hite (US Pat 6,002,393). A proposal to cancel claim 12 after final has been provided that makes this rejection moot.

103 Rejections

Claims 1-11, and 14-20 are rejected under 35 USC 103(a) as being unpatentable over Hite in view of Ballard (US Pat 6,182,050). Claim 13 is rejected as being

unpatentable over Hite in view of Yang (US Pat 6,459,906). Claims 21-23 are rejected as being unpatentable over Hite in view of Ballard and further in view of Schmelzer (US Pat 5,424,770).

A proposal to cancel claims 14-20 and 22-23 after final is included above to render these rejections moot. Applicants respectfully traverse the rejections of claims 1-11 and 21.

Claims 1-11

Amended claim 1 recites a method for inserting targeted advertisements into a media delivery stream during broadcast media programming including, in part, receiving a signal in the media delivery device to insert a stored advertisement into the media delivery stream during broadcast media programming and wherein the database includes a table for classifying the stored advertisements according to a plurality of categories, which includes a classification according to the type of advertisement that is stored, and wherein the signal includes at least one classification for one or more of the categories as provided in the table for selecting a commercial stored in the database for insertion into the media delivery stream. These recitations are contrary to Hite in view of Ballard.

The language of claim 1 above was previously rejected in relation to claim 5. In rejecting claim 5, the Office Action stated that Hite classified commercials and cited to col. 7, lines 7-9 where it is stated that “attached to each commercial are codes indicating the conditions and rules required to display the commercial....” However, these codes are attached to the commercials that are being provided to and stored by the set top box for future playback at the appropriate time.

The language of claim 5, now included in claim 1, pertains to the signal that instructs the media delivery device to insert the stored advertisement includes the classification of the commercial to be inserted. There is no signal in Hite that instructs a set top box to insert a stored commercial. Instead, there is a signal to record a commercial for future playback (see discussion of the second preferred embodiment) and the instruction to record the commercial specifies when the commercial should be played back such that there is no signal to insert. Furthermore, because there is no signal to

insert, there is also no signal to insert that specifies the classification of the commercial to be inserted. Thus, Hite fails to disclose all of the elements of claim 1.

Ballard does not account for these deficiencies in Hite. Ballard deals with advertisements being provided to a computer for display and is not concerned with inserting an advertisement into a media delivery stream during broadcast media programming. Ballard also fails to disclose that there is a signal to instruct a media delivery device to insert the advertisement and, therefore, also fails to disclose that the signal to instruct includes a classification of the advertisement to insert.

Accordingly, because the cited combination fails to disclose all of the elements of claim 1, claim 1 is allowable. Dependent claims 2-3 and 6-11 depend from an allowable base claim and are also allowable for at least the same reasons.

Claim 21

A proposed amendment after final to claim 21 corrects an antecedent basis issue but as amended presents no new issues. Claim 21 recites a system for inserting television commercials stored locally in a television set top box into a media programming stream that includes, in part, a receiver for receiving broadcast media programming into the set top box, a commercials database for storing advertisements in the set top box, and a commercials detector for detecting audio tones in broadcast media programming where one or more of the detected audio tones are substitution signals that indicate authorization for a local television station to insert a locally stored advertisement into the media stream.

These recitations of claim 21 provide for the commercial detector to be within the set top box. This is apparent because prior to reciting the commercials detector, the claim provides for the set top box locally storing the commercials and provides for the set top box receiving broadcast media programming. The recitations to the commercial detector then provide for the detection of the audio tones in broadcast media programming, i.e., that which is said to be received into the set top box, and further provide that there is authorization to insert the locally stored advertisement, i.e., that which is said to be stored in the set top box.

The cited combination fails to disclose these elements of claim 21. Hite in view of Ballard fails to disclose detecting audio tones to authorize insertion of commercials.

Instead, the commercials or advertisements of Ballard, are associated with a time when they are to be played back rather than being triggered by detection of a signal such as an audio tone. Furthermore, Schmelzer discloses that the audio tone is detected at the head end of the service provider, as is known in the art, as opposed to including the audio tone detection within a commercial detector of a set top box and does not suggest that such could be done in the set top box instead. Accordingly, Schmelzer does not account for the deficiencies of Hite in view of Ballard.

Therefore, for at least these reasons, claim 21 is allowable over the cited combination for at least these reasons.

Conclusion

Applicants assert that the application including claims 1-3, 6-11, and 21 is now in condition for allowance after final. Applicants request reconsideration in view of the [REDACTED] amendments and remarks above and further request that a Notice of Allowability be provided. Should the Examiner have any questions, please contact the undersigned.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: July 5, 2005



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